

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CRIMINAL CASE NO. 1:19-cr-00131-MR-WCM**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES ROBERT WEST, II,

Defendant.

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ORDER

THIS MATTER is before the Court on the Defendant's oral motion for a judgment of acquittal pursuant to Rule 29 of the Federal Rules of Criminal Procedure ("the Rule 29 motion").

On December 3, 2019, the Defendant was charged in a Bill of Indictment with one count of knowingly engaging and attempting to engage in a sexual act with a minor in Indian country, in violation of 18 U.S.C. §§ 2241(c) and 1153 ("Count One"); and one count of knowingly engaging in and causing sexual contact with a minor in Indian country, in violation of 18 U.S.C. §§ 2244(a)(5) and 1153 ("Count Two"). [Doc. 1]. This matter proceeded to a trial by jury on March 1, 2021. Upon the conclusion of the Government's case, the Defendant moved for a judgment of acquittal as to both Counts One and Two. The Court reserved ruling on the Defendant's

Rule 29 motion. See Fed. R. Crim. P. 29(b). On March 3, 2021, the Court declared a mistrial due to a hung jury. [See Minute Entry dated Mar. 3, 2021]. The Defendant's Rule 29 motion remained pending.

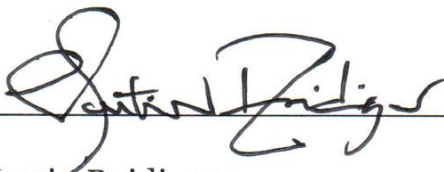
Thereafter, on April 6, 2021, the grand jury returned a Superseding Bill of Indictment against the Defendant, which added as an additional count the charge of assault with the intent to commit a felony in Indian country, in violation of 18 U.S.C. §§ 113(a)(2) and 1153 ("Count Three"). [Doc. 63].

On April 15, 2021, the parties filed a signed Plea Agreement, pursuant to which the Defendant has agreed to plead guilty to Count Three in exchange for the dismissal of Counts One and Two. [Doc. 67]. The Defendant's Rule 11 hearing is currently scheduled to take place on April 21, 2021.

In light of the Defendant's plea agreement, and the impending dismissal of Counts One and Two, the Court concludes that the Defendant's Rule 29 motion is moot and should be denied as moot.

IT IS, THEREFORE, ORDERED that the Defendant's oral Rule 29 motion is **DENIED AS MOOT**. Signed: April 20, 2021

IT IS SO ORDERED.



Martin Reidinger
Chief United States District Judge

